

## **CONFERENCE COMMITTEE REPORT DIGEST FOR EHB 1075**

**Citations Affected:** IC 27-8-5; IC 27-8-10-5.1.

**Synopsis:** Health insurance waivers. Provides that individual and certain group policies of accident and sickness insurance may contain a waiver of coverage for a specified condition under certain circumstances. Specifies that an offer of coverage under a policy that includes a waiver does not preclude eligibility for a comprehensive health insurance association policy. Requires certain reporting concerning policies issued with waivers. **(This conference committee report: (1) removes language allowing an individual to file a request for an external grievance without first pursuing an internal grievance to appeal a denial of coverage based on a waiver; and (2) removes the provisions allowing an insurance policy or a health maintenance organization contract to be offered without compliance with all health benefit mandates.)**

**Effective:** July 1, 2005.

# CONFERENCE COMMITTEE REPORT

**MADAM PRESIDENT:**

*Your Conference Committee appointed to confer with a like committee from the House upon Engrossed Senate Amendments to Engrossed House Bill No. 1075 respectfully reports that said two committees have conferred and agreed as follows to wit:*

that the House recede from its dissent from all Senate amendments and that the House now concur in all Senate amendments to the bill and that the bill be further amended as follows:

- 1 Delete everything after the enacting clause and insert the following:
- 2 SECTION 1. IC 27-8-5-2.7 IS ADDED TO THE INDIANA CODE
- 3 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
- 4 JULY 1, 2005]: **Sec. 2.7. (a) Notwithstanding section 2.5 of this**
- 5 **chapter and any other law, and except as provided in subsection**
- 6 **(b), an individual policy of accident and sickness insurance that is**
- 7 **issued after June 30, 2005, may contain a waiver of coverage for a**
- 8 **specified condition and any complications that arise from the**
- 9 **specified condition if:**
- 10 (1) the waiver period does not exceed ten (10) years; and
- 11 (2) all the following conditions are met:
- 12 (A) The insurer provides to the applicant before issuance of
- 13 the policy written notice explaining the waiver of coverage
- 14 for the specified condition and complications arising from the
- 15 specified condition.
- 16 (B) The:
- 17 (i) offer of coverage; and
- 18 (ii) policy;
- 19 include the waiver in a separate section stating in bold print
- 20 that the applicant is receiving coverage with an exception for
- 21 the waived condition.
- 22 (C) The:
- 23 (i) offer of coverage; and

- 1           (ii) policy;  
 2           do not include more than two (2) waivers per individual.  
 3           (D) The waiver period is concurrent with and not in addition  
 4           to any applicable preexisting condition limitation or  
 5           exclusionary period.  
 6           (E) The insurer agrees to:  
 7               (i) review the underwriting basis for the waiver upon  
 8               request one (1) time per year; and  
 9               (ii) remove the waiver if the insurer determines that  
 10              evidence of insurability is satisfactory.  
 11           (F) The insurer discloses to the applicant that the applicant  
 12           may decline the offer of coverage and apply for a policy  
 13           issued by the Indiana comprehensive health insurance  
 14           association under IC 27-8-10.  
 15           (G) An insurance benefit card issued by the insurer to the  
 16           applicant includes a telephone number for verification of  
 17           coverage waived.
- 18           The insurer shall require an applicant to initial the written notice  
 19           provided under subdivision (2)(A) and the waiver included in the  
 20           offer of coverage and in the policy under subdivision (2)(B) to  
 21           acknowledge acceptance of the waiver of coverage. An offer of  
 22           coverage under a policy that includes a waiver under this  
 23           subsection does not preclude eligibility for an Indiana  
 24           comprehensive health insurance association policy under  
 25           IC 27-8-10-5.1.
- 26           (b) An individual policy of accident and sickness insurance may  
 27           not include a waiver of coverage for a:  
 28               (1) mental health condition; or  
 29               (2) developmental disability.
- 30           (c) An insurer may not, on the basis of a waiver contained in a  
 31           policy as provided in subsection (a), deny coverage for any  
 32           condition or complication that is not specified as required in the:  
 33               (1) written notice under subsection (a)(2)(A); and  
 34               (2) offer of coverage and policy under subsection (a)(2)(B).
- 35           (d) An insurer that removes a waiver under subsection (a)(2)(E)  
 36           shall not consider the condition or any complication to which the  
 37           waiver previously applied in making policy renewal and  
 38           underwriting determinations.
- 39           (e) Upon the expiration of the waiver period allowed under this  
 40           section, the insurer shall:  
 41               (1) remove the waiver;  
 42               (2) not consider the condition or any complication to which the  
 43               waiver previously applied in making policy underwriting  
 44               determinations; and  
 45               (3) renew the policy in accordance with 45 CFR 148.122.
- 46           SECTION 2. IC 27-8-5-19.3 IS ADDED TO THE INDIANA CODE  
 47           AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE  
 48           JULY 1, 2005]: Sec. 19.3. (a) This section applies to an association  
 49           or a discretionary group policy of accident and sickness insurance:  
 50               (1) under which a certificate of coverage is issued after June 30,  
 51               2005, to an individual member of the association or

discretionary group;

(2) under which a member of the association or discretionary group is individually underwritten; and

(3) that is not employer based.

(b) Notwithstanding sections 19 and 19.2 of this chapter and any other law, and except as provided in subsection (e), a policy described in subsection (a) may contain a waiver of coverage for a specified condition and any complications that arise from the specified condition if:

(1) the waiver period does not exceed ten (10) years; and

(2) all of the following conditions are met:

(A) The insurer provides to the applicant before issuance of the certificate written notice explaining the waiver of coverage for the specified condition and complications arising from the specified condition.

(B) The:

(i) offer of coverage; and

(ii) certificate of coverage;

include the waiver in a separate section stating in bold print that the applicant is receiving coverage with an exception for the waived condition.

(C) The:

(i) offer of coverage; and

(ii) certificate of coverage;

do not include more than two (2) waivers per individual.

(D) The waiver period is concurrent with and not in addition to any applicable preexisting condition limitation or exclusionary period.

(E) The insurer agrees to:

(i) review the underwriting basis for the waiver upon request one (1) time per year; and

(ii) remove the waiver if the insurer determines that evidence of insurability is satisfactory.

(F) The insurer discloses to the applicant that the applicant may decline the offer of coverage, and that any individual to whom the waiver would have applied may apply for a policy issued by the Indiana comprehensive health insurance association under IC 27-8-10.

(G) An insurance benefit card issued by the insurer to the applicant includes a telephone number for verification of coverage waived.

(c) The insurer shall require an applicant to initial the written notice provided under subsection (b)(2)(A) and the waiver included in the offer of coverage and in the certificate of coverage under subsection (b)(2)(B) to acknowledge acceptance of the waiver of coverage.

(d) An offer of coverage under a policy that includes a waiver under this section does not preclude eligibility for an Indiana comprehensive health insurance association policy under IC 27-8-10-5.1.

(e) A policy described in subsection (a) may not include a waiver

of coverage for a:

(1) mental health condition; or

(2) developmental disability.

(f) An insurer may not, on the basis of a waiver contained in a policy as provided in this section, deny coverage for any condition or complication that is not specified as required in the:

(1) written notice under subsection (b)(2)(A); and

(2) offer of coverage and certificate of coverage under subsection (b)(2)(B).

(g) An insurer that removes a waiver under subsection (b)(2)(E) shall not consider the condition or any complication to which the waiver previously applied in making policy renewal and underwriting determinations.

(h) Upon the expiration of the waiver period allowed under this section, the insurer shall:

(1) remove the waiver;

(2) not consider the condition or any complication to which the waiver previously applied in making policy underwriting determinations; and

(3) renew the policy in accordance with 45 CFR 148.122.

SECTION 3. IC 27-8-10-5.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5.1. (a) A person is not eligible for an association policy if the person is eligible for Medicaid. A person other than a federally eligible individual may not apply for an association policy unless the person has applied for Medicaid not more than sixty (60) days before applying for the association policy.

(b) Except as provided in subsection (c), a person is not eligible for an association policy if, at the effective date of coverage, the person has or is eligible for coverage under any insurance plan that equals or exceeds the minimum requirements for accident and sickness insurance policies issued in Indiana as set forth in IC 27. However, an offer of coverage described in IC 27-8-5-2.5(e), ~~or IC 27-8-5-2.7,~~ IC 27-8-5-19.2(e), ~~or IC 27-8-5-19.3~~ does not affect an individual's eligibility for an association policy under this subsection. Coverage under any association policy is in excess of, and may not duplicate, coverage under any other form of health insurance.

(c) Except as provided in IC 27-13-16-4 and subsection (a), a person is eligible for an association policy upon a showing that:

(1) the person has been rejected by one (1) carrier for coverage under any insurance plan that equals or exceeds the minimum requirements for accident and sickness insurance policies issued in Indiana, as set forth in IC 27, without material underwriting restrictions;

(2) an insurer has refused to issue insurance except at a rate exceeding the association plan rate; or

(3) the person is a federally eligible individual.

For the purposes of this subsection, eligibility for Medicare coverage does not disqualify a person who is less than sixty-five (65) years of age from eligibility for an association policy.

(d) Coverage under an association policy terminates as follows:

(1) On the first date on which an insured is no longer a resident of

1 Indiana.

2 (2) On the date on which an insured requests cancellation of the  
3 association policy.

4 (3) On the date of the death of an insured.

5 (4) At the end of the policy period for which the premium has been  
6 paid.

7 (5) On the first date on which the insured no longer meets the  
8 eligibility requirements under this section.

9 (e) An association policy must provide that coverage of a dependent  
10 unmarried child terminates when the child becomes nineteen (19) years  
11 of age (or twenty-five (25) years of age if the child is enrolled full time  
12 in an accredited educational institution). The policy must also provide  
13 in substance that attainment of the limiting age does not operate to  
14 terminate a dependent unmarried child's coverage while the dependent  
15 is and continues to be both:

16 (1) incapable of self-sustaining employment by reason of mental  
17 retardation or mental or physical disability; and

18 (2) chiefly dependent upon the person in whose name the contract  
19 is issued for support and maintenance.

20 However, proof of such incapacity and dependency must be furnished  
21 to the carrier within one hundred twenty (120) days of the child's  
22 attainment of the limiting age, and subsequently as may be required by  
23 the carrier, but not more frequently than annually after the two (2) year  
24 period following the child's attainment of the limiting age.

25 (f) An association policy that provides coverage for a family member  
26 of the person in whose name the contract is issued must, as to the  
27 family member's coverage, also provide that the health insurance  
28 benefits applicable for children are payable with respect to a newly  
29 born child of the person in whose name the contract is issued from the  
30 moment of birth. The coverage for newly born children must consist of  
31 coverage of injury or illness, including the necessary care and treatment  
32 of medically diagnosed congenital defects and birth abnormalities. If  
33 payment of a specific premium is required to provide coverage for the  
34 child, the contract may require that notification of the birth of a child  
35 and payment of the required premium must be furnished to the carrier  
36 within thirty-one (31) days after the date of birth in order to have the  
37 coverage continued beyond the thirty-one (31) day period.

38 (g) Except as provided in subsection (h), an association policy may  
39 contain provisions under which coverage is excluded during a period  
40 of three (3) months following the effective date of coverage as to a  
41 given covered individual for preexisting conditions, as long as medical  
42 advice or treatment was recommended or received within a period of  
43 three (3) months before the effective date of coverage. This subsection  
44 may not be construed to prohibit preexisting condition provisions in an  
45 insurance policy that are more favorable to the insured.

46 (h) If a person applies for an association policy within six (6) months  
47 after termination of the person's coverage under a health insurance  
48 arrangement and the person meets the eligibility requirements of  
49 subsection (c), then an association policy may not contain provisions  
50 under which:

51 (1) coverage as to a given individual is delayed to a date after the

1 effective date or excluded from the policy; or  
 2 (2) coverage as to a given condition is denied;  
 3 on the basis of a preexisting health condition. This subsection may not  
 4 be construed to prohibit preexisting condition provisions in an  
 5 insurance policy that are more favorable to the insured.

6 (i) For purposes of this section, coverage under a health insurance  
 7 arrangement includes, but is not limited to, coverage pursuant to the  
 8 Consolidated Omnibus Budget Reconciliation Act of 1985.

9 **SECTION 4. [EFFECTIVE JULY 1, 2005] (a) An insurer that**  
 10 **issues a policy of accident and sickness insurance that contains a**  
 11 **waiver under IC 27-8-5-2.7 or IC 27-8-5-19.3, both as added by this**  
 12 **act, shall submit to the commissioner of the department of**  
 13 **insurance the following information for the reporting periods**  
 14 **specified under subsection (b) on a form prescribed by the**  
 15 **commissioner:**

16 (1) The number of policies and certificates that the insurer  
 17 issued with a waiver.

18 (2) A list of specified conditions that the insurer waived.

19 (3) The number of waivers issued for each specified condition  
 20 listed under subdivision (2).

21 (4) The number of waivers issued categorized by the period of  
 22 time for which coverage of a specified condition was waived.

23 (5) The number of applicants who were denied insurance  
 24 coverage by the insurer because of a specified condition.

25 (b) An insurer shall submit to the commissioner of the  
 26 department of insurance the information required under  
 27 subsection (a) as follows:

28 (1) Not later than September 1, 2006, for the reporting period  
 29 July 1, 2005, through June 30, 2006.

30 (2) Not later than September 1, 2007, for the reporting period  
 31 July 1, 2006, through June 30, 2007.

32 (c) The commissioner of the department of insurance shall  
 33 forward the information submitted:

34 (1) under subsection (b)(1) not later than November 1, 2006;  
 35 and

36 (2) under subsection (b)(2) not later than November 1, 2007;  
 37 to the legislative council in an electronic format under IC 5-14-6.

38 (d) The commissioner of the department of insurance shall  
 39 compile the information submitted under subsection (b) and, not  
 40 later than November 1, 2007, report the information to the  
 41 legislative council in an electronic format under IC 5-14-6.

42 (e) This SECTION expires June 30, 2008.

(Reference is to EHB 1075 as reprinted April 6, 2005.)

**Conference Committee Report**  
**on**  
**Engrossed House Bill 1075**

**S**igned by:

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Representative Torr  
Chairperson

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Senator Miller

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Representative Brown C

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Senator Simpson

**House Conferees**

**Senate Conferees**